

Warren County Board of Supervisors

RESOLUTION NO. 260 OF 2013

Resolution introduced by Supervisors Monroe, Bentley, Montesi, Girard, Sokol, Wood and Frasier

CONDUCTING REVIEW UNDER THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT AND ENACTING LOCAL LAW NO. 6 OF 2013

WHEREAS, proposed Local Law No. 6 of 2013 was duly presented to the Board of Supervisors and considered by them, said proposed local law being entitled, "A Local Law Amending Sections 6 and 7 of Local Law No. 9 of 2011 in Relation to Preventing the Spread of Aquatic Invasive Species in Warren County", and

WHEREAS, the Board of Supervisors adopted Resolution No. 172 of 2013 on March 15, 2013, authorizing a public hearing to be held by the Board of Supervisors on the 19th day of April, 2013, at the Supervisors' Rooms in the Warren County Municipal Center on the matter of the proposed local law, and notice of such public hearing having been duly published and posted as required by law, and said public hearing having been held and all persons appearing at said public hearing desiring to be heard, having been heard, and

WHEREAS, the amendments to the Local Law include revisions to the penalty provisions as well as revisions to the enforcement provisions which revisions contain specific authorization for the Lake George Park Commission, the New York State Department of Environmental Conservation and the New York State Police to enforce the Local Law, and

WHEREAS, the adoption of Local Law No. 6 of 2013 is an unlisted action under the State Environmental Quality Review Act ("SEQRA"), and a Short Environmental Assessment Form has been presented to the Warren County Board of Supervisors for review and deliberation, now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors be, and hereby is, authorized to execute the Short Environmental Assessment Form referred to hereinabove and indicate thereon that the proposed

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action will not result in any significant adverse impacts, and be it further

RESOLVED, that a negative declaration under SEQRA shall be prepared and filed as required by law, and be it further

RESOLVED, that the Board of Supervisors of the County of Warren, New York, on this 19th day of April, 2013, does hereby enact and adopt Local Law No. 6 of 2013 as set forth in Schedule "A" annexed hereto.

COUNTY OF WARREN

LOCAL LAW NO. 6 OF 2013

**A LOCAL LAW AMENDING SECTIONS 6 AND 7 OF LOCAL LAW
NO. 9 OF 2011 IN RELATION TO PREVENTING THE SPREAD
OF AQUATIC INVASIVE SPECIES IN WARREN COUNTY**

BE IT ENACTED by the Warren County Board of Supervisors of the County of Warren as follows:

SECTION 1. Title. This Local Law shall be known and may be cited as “A Local Law Amending Sections 6 and 7 of Local Law No. 9 of 2011 in Relation to Preventing the Spread of Aquatic Invasive Species in Warren County”.

SECTION 2. Legislative Intent. The Warren County Board of Supervisors hereby finds and determines that aquatic invasive species can displace native species and alter natural ecosystems, and cause negative environmental and economic impacts such as that presently occurring with regard to the Asian clam infestation in Lake George. Ultimately, residents and visitors to Warren County alike are negatively impacted by the decline of water bodies subjected to aquatic invasive species. It is the intent of this law to protect the ecology of water bodies wholly or partially located and/or accessed in Warren County by preventing the introduction of any aquatic invasive species and therefore helping to protect the environment and economy of Warren County .

SECTION 3. Definitions. As used in this law, the following terms shall have the following meanings:

(a) "Aquatic Invasive species" means with respect to waters located and/or accessed in Warren County, any aquatic species, including its eggs, spores or other biological material capable of propagating or reproducing that species, that are not natural to said waters located or accessed in Warren County, including all of its cultivars and varieties, whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species, as that term is used herein, includes but

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is not limited to Asian clam (*Corbicula fluminea*), Eurasian watermilfoil and zebra mussels.

(b) "Person" means any individual, governmental entity, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent, or employee thereof.

(c) "Launch" means to place a watercraft into a waterbody for any purpose and any activity that takes place within fifty feet of the high water mark of the waterbody for the purpose of placing a watercraft into a waterbody, including moving by trailer or other device or carrying by hand a watercraft toward a waterbody, or entering a queue prior to launching.

(d) "Waterbody" means the same as "waters".

(e) "Waters" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuarites, marshes, inlets and canals within the territorial limits of the County of Warren, and all other bodies of surface or underground water, natural or artificial, inland, fresh, public or private, which are wholly or partially within or bordering the County or within its jurisdiction.

(f) "Watercraft" means every motorized or non-motorized boat or vehicle capable of being used or operated as a means of transportation in or on water.

SECTION 4. Prohibitions (Unlawful Activities). It shall be unlawful for any person to:

(a) launch or attempt to launch in Warren County a watercraft into a waterbody with any aquatic invasive species or other plant or animal, or parts thereof, visible to the human eye in, on, or attached to any part of the watercraft, including in live wells and bilges; the motor, rudder, anchor or other appurtenants; any equipment or gear; or the trailer or any other device used to transport or launch a watercraft that may come into contact with the water;

(b) to enter a public highway in Warren County after leaving a launch site without first removing by hand any aquatic invasive species or other plant or animal, or parts thereof, visible to the human

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eye in, on, or attached to any part of the watercraft, including in live wells and bilges; the motor, rudder, anchor or other appurtenants; any equipment or gear; or the trailer or any other device used to transport or launch a watercraft that may come into contact with the water. Removed items must be discarded away from the shoreline, in such a manner as to prevent the removed items from re-entering the waterbody;

(c) introduce, throw, dump, deposit, place or cause to be propagated, transplanted, introduced, thrown, dumped, deposited or placed in any water body, in whatever capacity and for whatever purpose while in Warren County, an aquatic invasive species.

SECTION 5. Exceptions to Prohibitions. The provisions of SECTION 4 of this Local Law shall not apply to:

(a) the carrying and use of bait for the purpose of fishing, consistent with all applicable laws and regulations related to bait fish;

(b) the use of the above-water portions of native plants for camouflage of the watercraft for the purpose of hunting, consistent with all applicable laws and regulations related to the use, possession and harvesting of plants;

(c) pets or hunting dogs;

(d) the intentional transport of plants or animals, including for food and landscaping, provided they are fully and securely contained within or on board the watercraft; and

(e) the use of plants or animals for habitat restoration, weed control, scientific research, aquaculture, or other activity, consistent with all applicable laws and regulations related to their use, possession or harvest.

SECTION 6. Penalty for Violation. Any person who engages in any activity prohibited by this Local Law shall be guilty of a violation. Every person convicted of a violation of this Local Law shall be punished by a fine of up to Five Hundred Dollars (\$500) for a first offense and a fine up to One Thousand

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Dollars (\$1,000) for a second conviction of a violation of this Local Law in a twenty-four (24) month period or in each case imprisonment not to exceed fifteen (15) days or both said fine and imprisonment.

SECTION 7. Enforcement. This Local Law shall be enforced by the Warren County Sheriff in the same manner as a traffic violation is handled and processed. This Local Law may also be enforced by the New York State Department of Environmental Conservation and the New York State Police. This Local Law may also be enforced within the boundaries of the Lake George Park in Warren County by patrolmen of the Lake George Park Commission pursuant to the powers conferred upon such patrolmen under applicable provisions of Environmental Conservation Law Articles 43 and 71.

SECTION 8. Severability. If any section, subdivision, paragraph, subparagraph, clause, or item of this title is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 9. This act shall take effect immediately upon filing in the Office of the Secretary of State.

Appendix C

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Warren County	2. PROJECT NAME Local Law No. 6 of 2013 Amending Local Law Preventing spread of Aquatic Invasive Species
3. PROJECT LOCATION: Municipality Warren County County Warren	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) All waterbodies within and/or bordering the political boundary of the County of Warren.	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: The proposed action amends Local Law No. 9 of 2011 which prohibits the launching of watercraft when an aquatic invasive species or other plant or animal visible to the human eye are in or attached to any part of the watercraft or trailer. Amendments are to penalty provision and enforcement provision to allow enforcement by multiple agencies.	
7. AMOUNT OF LAND AFFECTED: Initially <u>N/A</u> acres Ultimately <u>N/A</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <u>Warren County</u>	Date: <u>4/19/13</u>
Signature: _____ Martin D. Auffredou, Warren County Attorney	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:
No

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

County of Warren

Name of Lead Agency
Kevin B. Geraghty

Print or Type Name of Responsible Officer in Lead Agency

Signature of Responsible Officer in Lead Agency

4/19/13

Date
Chairman of the Board of Supervisors

Title of Responsible Officer

Signature of Preparer (If different from responsible officer)

Reset

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination ; see 617.7(d) for Conditioned Negative Declaration)

The Warren County Board of Supervisors reviewed a Short Environmental Assessment Form and concluded the amendments to Local Law No. 9 of 2011 will not have any significant adverse effects on the environment. The amendments to the penalty provision provide needed flexibility to law enforcement agencies and courts. The amendments to the enforcement provision will increase the number of law enforcement agencies with enforcement authority for the Local Law thereby increasing enforcement presence which will further the objective of the Local Law to prevent the spread of aquatic invasive species such as Asian clams, zebra mussels and Eurasian watermilfoil.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

For Further Information:

Contact Person: Martin D. Auffredou, Warren County Attorney

Address: 1340 State Route 9, Lake George, New York 12845

Telephone Number: (518)761-6463

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:

Chief Executive Officer , Town / City / Village of

Other involved agencies (If any)

Applicant (If any)

Environmental Notice Bulletin, 625 Broadway, Albany NY, 12233-1750 (Type One Actions only)